

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW
P.O. Box 722
Cleburne, Texas 76031,

and

MARK ALLEN
607 N. Carolina Avenue, S.E.
Washington, D.C. 20003,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505,

Defendant.

Civil Action No. 82-1835

(Ruiz)
6/30/82

COMPLAINT
For Declaratory and Injunctive Relief

1. This case is brought under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the Administrative Procedure Act, 5 U.S.C. 301 and 701-706, to require defendant to permit access to certain records in its possession and under its control.

2. This Court has jurisdiction over this cause of action pursuant to 5 U.S.C. 552(a)(4)(B) and 5 U.S.C. 702.

3. Plaintiff J. Gary Shaw is an individual residing in Cleburne, Texas; and plaintiff Mark Allen is an individual residing at 607 N. Carolina Avenue, S.E., Washington, D.C. 20003.

4. Defendant is an agency of the United States and has possession of the records to which plaintiffs seek access.

COUNT ONE

5. On April 23, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Pierre Sergent, former French Army Officer, for the years 1960-64. Sergent was a Captain in the French Army who deserted and joined the OAS. Much of his OAS duty was seen in metropolitan France. He contacted CIA personnel in an attempt to get U.S. aid for the OAS." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 1a, attached hereto)

6. On May 21, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 1b, attached hereto)

7. On May 27, 1982, defendant replied to the effect that the appeal was unacceptable until plaintiffs supplied more biographical data and made a payment of \$90.00. (See Exhibit 1c, attached hereto)

8. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT TWO

9. Paragraphs 1-4 are herein incorporated by reference.

10. On May 11, 1982, plaintiffs made a former request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Dominique de Roux, a French citizen, born in Algeria circa 1935. His father was governor of the Bank of France in Algeria. Mr. Roux became a well-known politician and writer and was married to the daughter of a former mayor of Royan. He was a member of Aginter Presse.

Many of his activities during the 1970's involved Mozambique, Angola, and Cabinda. He died of a heart attack in 1976 at the age of 41." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 2a, attached hereto)

11. On May 21, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant said that it could not process the request without (a) more biographic data; (b) proof of death; and (c) a further commitment to pay both search and copying fees. (See Exhibit 2b, attached hereto)

12. On June 9, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 2c, attached hereto)

13. On June 16, 1982, defendant repeated the requirements stated in its letter of May 21st; no records have been produced to date. (See Exhibit 2d, attached hereto)

14. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT THREE

15. Paragraphs 1-4 are herein incorporated by reference.

16. On May 13, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Marquis Brousse de Montpeyroux, a French officer who deserted from the French forces in Algeria in 1961. He was arrested for helping in the establishment of an anti-Gaullist force in Algeria." It was pointed out in the request that the records were sought in connection

with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 3a, attached hereto)

17. On May 21, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant said that it would not process the request without (a) more biographical data; (b) a privacy waiver or proof of death; and (c) a further commitment to pay both search and copying fees. (See Exhibit 3b, attached hereto)

18. On June 11, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 3c, attached hereto)

19. On June 16, 1982, defendant repeated its demands of May 21st. (See Exhibit 3d, attached hereto)

20. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT FOUR

21. Paragraphs 1-4 are herein incorporated by reference.

22. On May 14, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Gloria Orsony, who is believed to have been from Caracas, Venezuela, and who stayed at the Carousel Motel in Dallas from Nov. 20-22, 1963. Her activities are described at pp. 16-18 of Warren Commission Document CD 14. A summary is attached." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 4a, attached hereto)

23. On May 21, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant stated that it would not process the request without (a) more biographical data; (b) a privacy waiver or proof of death; and (c) a further commitment to pay search and copying fees. (See Exhibit 4b, attached hereto)

24. On June 14, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 4c, attached hereto)

25. On June 18, 1982, defendant repeated its demands of May 21st. (See Exhibit 4d, attached hereto)

26. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT FIVE

27. Paragraphs 1-4 are herein incorporated by reference.

28. On May 18, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Guy L. Johnson during the years 1960-1968. Johnson was a New Orleans attorney who maintained an office in the Pere Marquette building. He ran for a seat on the Criminal District Court bench in 1963, but was defeated. He was a reserve officer in Naval Intelligence. He also served as Clay Shaw's first defense attorney when he was accused of conspiring to murder President Kennedy. He died some years ago." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 5a, attached hereto)

29. On May 28, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant stated that it would not process the request

without (a) more biographical data; (b) proof of death; and (c) a further commitment to pay search and copying fees. (See Exhibit 5b, attached hereto)

30. On June 16, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 5c, attached hereto)

31. Plaintiffs have received no reply to this appeal or any records.

32. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT SIX

33. Paragraphs 1-4 are herein incorporated by reference.

34. On April 14, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Schlumberger Well Services Company during the years 1959-1964. The company headquarters is in Houston, Texas. It is alleged that the company engaged in anti-Gaullist activities." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 6a, attached hereto)

35. On April 22, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant stated that it was "suspending the running time" of the request until it received a further commitment as to fees. (See Exhibit 6b, attached hereto)

36. On May 24, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 6c, attached hereto)

37. On June 9, 1982, defendant repeated its demand of April 22, 1982, and refused to accept the appeal. (See Exhibit 6d, attached hereto)

38. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT SEVEN

39. Paragraphs 1-4 are herein incorporated by reference.

40. On May 24, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to David William Ferrie, an ex-Eastern Airlines pilot who lived in New Orleans in the 1960's. Ferrie dabbled in religion and medicine. He did investigative work for Carlos Marcello. He was alleged to have known both Clay Shaw and Lee Harvey Oswald. Ferrie died in New Orleans on February 22, 1967." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 7a, attached hereto)

41. On June 1, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant asked whether production of records post-1975 would be sufficient. (See Exhibit 7b, attached hereto)

42. On June 4, 1982, plaintiffs replied in the affirmative. (See Exhibit 7c, attached hereto)

43. On June 15, 1982, defendant replied that it would hold the request "in suspense" until plaintiffs sent a check for \$90.00 in advance of a search. (See Exhibit 7d, attached hereto)

44. Plaintiffs assert that their administrative remedies have been exhausted.

COUNT EIGHT

45. Paragraphs 1-4 are herein incorporated by reference.

46. On May 20, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Roy William Pike, AKA Mike Pike, during the years 1960-1965. At the time of the Kennedy assassination, he and his wife lived in an apartment on Connecticut Lane, Dallas. He worked for Collins Ford in Dallas from Sept.-Dec., 1963. On Dec. 10, 1963, he went back to California. He was associated with Jack Ruby of Dallas and Judge J.C. Duvall of Ft. Worth. His activities are chronicled in Warren Commission Document CD 736. His FBI Los Angeles file # is Los Angeles 44-895." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 8a, attached hereto)

47. On June 4, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant said that it would not proceed to process the request without (a) more biographical data; (b) a privacy waiver or proof of death; and (c) a further commitment to pay search and copying fees. (See Exhibit 8b, attached hereto)

48. On June 18, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 8c, attached hereto)

49. No records have been produced to date.

50. Plaintiffs assert that their administrative remedies have been exhausted.

COUNT NINE

51. Paragraphs 1-4 are herein incorporated by reference.

52. On March 26, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Maurice Brooks Gatlin, Sr., during the years 1960-64. Mr. Gatlin was a New Orleans attorney. Among his clients were the Anti-Communist League of the Caribbean. He was a close associate of W. Guy Banister. In 1964 he fell or was pushed from a hotel window and died instantly." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 9a, attached hereto)

53. On April 14, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant stated that it would not process the request without (a) more biographical data; (b) proof of death; and (c) a check for \$90.00. (See Exhibit 9b, attached hereto)

54. On May 24, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 9c, attached hereto)

55. On May 28, 1982, defendant repeated its demands of April 14th. (See Exhibit 9d, attached hereto)

56. On June 4, 1982, plaintiffs sent defendant correspondence from the FBI on an identical FOIA request in which the FBI agreed to produce the records without further biographical details, an obituary, or down payments in advance of search. (See Exhibit 9e, attached hereto)

57. On June 17, 1982, defendant repeated its demand for \$90.00 in advance. (See Exhibit 9f, attached hereto)

58. Plaintiffs assert that their administrative remedies have been exhausted.

COUNT TEN

59. Paragraphs 1-4 are herein incorporated by reference.

60. On May 21, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Silvia Duran, a Mexican woman who worked in the Cuban Embassy in Mexico City in 1963 when the Embassy was visited by "Lee Harvey Oswald." After the assassination of President Kennedy, Ms. Duran was picked up by the Mexican police and questioned extensively. She is quoted at some length in the Warren Report." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 10a, attached hereto)

61. On June 1, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant inquired whether an update would be sufficient. (See Exhibit 10b, attached hereto)

62. On June 4, 1982, plaintiffs replied in the affirmative. (See Exhibit 10c, attached hereto)

63. On June 16, 1982, defendant replied to the effect that they would hold the request in suspense until they received a check in the amount of \$90.00 from the plaintiffs. (See Exhibit 10d, attached hereto)

64. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

REQUESTED RELIEF

65. Pursuant to 5 U.S.C. 552(a)(3), plaintiffs are entitled to access to the requested records.

66. Plaintiffs have exhausted their administrative remedies.

67. There is no legal basis for defendant's withholding of such access.

68. Defendant has abused its discretion and acted in an arbitrary and capricious manner in withholding records sought by plaintiffs.

WHEREFORE, plaintiffs pray that the Court:

a) Order defendant by a date certain to produce the requested documents to them for inspection and copying, and a draft order to this effect is appended for the Court's consideration;

b) In cases of withholding or deletions, order defendant by a date certain to prepare an index, description, and justification in accordance with the requirements of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), and a draft order to this effect is appended for the Court's consideration;

c) Provide for expeditious proceedings in this action as provided in 5 U.S.C. 552(2)(4)(D);

d) Because of the great public interest in the Kennedy assassination, order a fee waiver as to search and duplication costs;

e) Award plaintiffs their costs and reasonable attorneys' fees in this case; and

f) Grant such other and further relief as the Court may deem just and proper.



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Dated: June 23, 1982